



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/140,049 08/26/98 COTE

A COTE/971/US

┌

PM92/0629

┐

EXAMINER

NIELDS LEMACK & DINGMAN
176 EAST MAIN STREET
SUITE 8
WESTBOROUGH MA 01581

GLESSNER, B	
ART UNIT	PAPER NUMBER

3635

2

DATE MAILED:

06/29/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/140,049

Applicant(s)
Armand Cote

Examiner
Brian Glessner

Group Art Unit
3635



☒ Responsive to communication(s) filed on Aug 26, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-14 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3635

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the city and state or foreign country of residence of each inventor.

It does not identify the citizenship of each inventor.

It does not properly claim priority on the provisional application under 35 U.S.C. Section 119(e).

Specification

2. The disclosure is objected to because of the following informalities: on page 5, line 13, the reference numeral 20 should be reference numeral 10 when referring to the steel point section. Appropriate correction is required.

Also, the application can not be a continuation-in-part of a provisional application. It can only claim priority on the provisional application. Therefore, the first line of the specification needs amended.

Art Unit: 3635

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 1 and 13, the scope of the claims is indefinite because it is not clear as to whether or not the applicant intends to claim the utility pole in combination with the ground or adapted to be inserted into the ground. The applicant recites that the utility pole is "for placement in the ground", then positively states that the first elongated pole portion is in the ground. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 5-9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by

Andersson et al. (5,081,804).

Art Unit: 3635

In regard to claim 1, Andersson et al. discloses a utility pole, figure 3, for placement in the ground comprising:

a first elongated pole portion 1 adapted to be placed in the ground and partially protruding therefrom; a second elongated pole portion 20 interfitted into said first portion above the ground; and means for hanging utility wires from said utility pole.

In regard to claim 5, Andersson et al. discloses the claimed invention, in which said first portion includes at its upper end one part of a two-part male/female connector element.

In regard to claim 6, Andersson et al. discloses the claimed invention, in which said second portion includes at its lower end the second part of said male/female connector element.

In regard to claim 7, Andersson et al. discloses the claimed invention, in which said second portion further includes at its upper end one part of another two-part male/female connector element.

In regard to claim 8, Andersson et al. discloses the claimed invention, further including a third pole portion 22 having the second part of said another two-part male/female connector element.

In regard to claim 9, Andersson et al. discloses the claimed invention, in which said means for hanging wires includes a third pole portion interfitted into said second pole portion at the upper end thereof.

In regard to claim 11, Andersson et al. discloses the claimed invention, in which said first, second, and third pole portions are generally cylindrical.

Art Unit: 3635

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson et al. (5,081,804) in view of Papin (5,775,035).

In regard to claim 2, Andersson et al. discloses the claimed invention, except for disclosing that said first and second portions are made of plastic. Papin teaches that it is known to construct utility poles of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct Andersson et al.'s pole of plastic, because plastic does not need to be treated before it is exposed to the elements. Also, plastic is easily molded and lower in cost compared to metal. Further, plastic can be produced to have structural characteristics comparable to that of metals.

In regard to claims 3 and 4, Andersson et al. in view of Papin disclose the basic claimed invention, in which said second portion is substantially hollow and has a generally annular cross-section.

In regard to claim 13, Andersson et al. discloses a utility pole comprising:

a lower member 1 adapted to be embedded in the ground; an intermediate, generally cylindrical member 20 interfitted into said lower member and protruding up; and a top

Art Unit: 3635

member 22 interfitted into said intermediate member, and carrying utility wires; wherein said intermediate member is a hollow tube. Andersson et al. does not disclose that said intermediate tube is plastic. Papin teaches that it is known to construct utility poles of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct Andersson et al.'s pole of plastic, because plastic does not need to be treated before it is exposed to the elements. Also, plastic is easily molded and lower in cost compared to metal. Further, plastic can be produced to have structural characteristics comparable to that of metals.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson et al. (5,081,804).

In regard to claim 10, Andersson et al. discloses the claimed invention, in which said first pole portion is substantially solid. Andersson et al. discloses that said first pole portion is filled with concrete. Therefore, it is substantially solid. Andersson et al. does not disclose that said third pole portion is substantially solid. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Andersson et al.'s third pole portion substantially solid, because the third pole portion is supporting the weight of the power lines and additional strength may be needed.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson et al. (5,081,804) in view of Baumeister (3,378,967).

In regard to claim 12, Andersson et al. discloses the claimed invention, further including a pointed member. However, Andersson et al. does not disclose that said pointed member is a

Art Unit: 3635

separate member that connects to the first pole portion. Baumeister teaches that it is known to make the pointed portion and the pole portion separate and then connect them together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make Andersson et al.'s pointed member and first pole portion separate, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson et al. (5,081,804) in view of Papin (5,775,035) as applied to claim 13 above and further in view of Svensson (4,738,058).

In regard to claim 14, Andersson et al. in view of Papin disclose the basic claimed invention, except for disclosing that said intermediate member is fluted along its length to weaken it so that it fractures more easily. Svensson teaches that it is known to provide flutes in posts to weaken them. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate said flutes into Andersson et al. in view of Papin's invention, because the flutes will allow the pole to fracture easier during an impact. Therefore, the object impacting the pole will not be damaged as severely and if it is an automobile that impacts the pole, the occupants will not be injured.

Art Unit: 3635

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pfaff, Jr., Greene, Svensson, Jatcko, Nadel, Lapointe, Hugron, Maruyama, and Baker.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Glessner whose telephone number is (703) 305-0031.



**CHRISTOPHER T. KENT
PRIMARY EXAMINER**

B.G.

June 24, 1999